IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1749 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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RAKSHA ANANJI TRIVEDI

Versus

THE DISTRICT & SESSIONS JUDGE,

Appearance:

1. Special Civil Application No. 1749 of 1987
MR MANOJ N POPAT for Petitioner.
Mr.L.R.Pujari, Asst.GOVERNMENT PLEADER for Respondent.

CORAM : MR.JUSTICE N.G.NANDI

Date of decision: 13/07/2001

ORAL JUDGEMENT

Heard Mr.Manoj Popat, learned advocate for the petitioner and Mr.L.R.Pujari, Ld.AGP for the respondent.

2. The petitioner has been challenging the action of the respondent relieving her from service by accepting her resignation, dated 17.6.1986 on 29.6.86 and prays for direction to the respondent to reinstate her in service forthwith.

3. It is not in dispute that the petitioner was serving in the District Court, Jamnagar as Section Writer in the Record Branch. That on 17.6.1986 she tendered voluntary resignation from her service and that her voluntary resignation was accepted by the respondent-Dsitrict & Sessions Judge, Jamnagar vide order dated 20.6.1986. Thereafter, the petitioner vide her letter dated 30.6.1986 requested for not accepting her resignation as the same was submitted because of force, pressure exercised by her parents and maternal uncle.

4. In the affidavit-in-reply it has been stated by the respondent that after the petitioner's voluntary resignation was accepted she is serving as Organiser, UCD Project, Jamnagar Municipal Corporation and that the petitioner is already gainfully employed elsewhere. It is also stated in the affidavit-in-reply that there is no provision under which once the resignation is accepted a person can be reinstated without following the procedure prescribed for regular appointment afresh.

5. It may be seen that in the resignation letter the request was to accept the same immediately. In view of the fact that the petitioner's voluntary resignation which was admittedly not to come into effect at a future date and request for immediate acceptance of resignation having been accepted by the respondent, there is no question of petitioner withdrawing her voluntary resignation since the same came into effect immediately on acceptance and by the respondent acceeding to the request of the petitioner for immediate acceptance of her resignation. There can not be reinstatement of the petitioner in service as the acceptance of her resignation was already communicated and resignation came into force with immediate effect, much prior to petitioner's letter seeking withdrawal of resignation.

6. It is stated by Mr.Manoj Popat that the respondent ought to have waited for one month before accepting the resignation of the petitioner. This contention has no force since the request was for acceptance of resignation with immediate effect. The requirement of one month's notice is impliedly waived by acceptance of resignation as desired by the petitioner.

7. In view of the above facts and circumstances, prayer in the petition being misconceived can not be granted and the petition is liable to be dismissed.

8. In the result petition fails and rule is discharged. No order as to costs.

13.7.2001 (N.G.NANDI,J)
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